

**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Adopt Resolution Authorizing City Manager to Enter into a First Amendment to World of Wonders Science Museum Lease to Extend Commencement of Rent Obligation

MEETING DATE: December 19, 2007 City Council Meeting

PREPARED BY City Manager

RECOMMENDED ACTION: Adopt Resolution authorizing the City Manager to enter into a First Amendment to World of Wonders Lease to extend commencement of rent obligation.

BACKGROUND INFORMATION: The City Council approved a lease with the World of Wonders Science Museum ('WOW') in February of 2007. The lease requires that tenant improvements be completed by January of 2008 and that the payment of rent commence on the same date. Although as outlined below, the WOW has achieved significant success in their fundraising campaign; their efforts have been hampered by the current economy. As such, they have requested a one-year extension for completion of the tenant improvements and commencement of rent.

To date, WOW has over \$240,000 in the bank. This includes the \$165,000 held in CDs as a security deposit for the City of Lodi. In addition the WOW has made significant strides in lining up exhibits. Two months ago the Board of Directors made the decision to partner with the San Francisco Exploratorium. This partnership will extend over three years at \$120,000 per year. The Exploratorium will supply the WOW with 30-35 new hands-on exhibits, exhibit building training and educational program training and work with the school district to coordinate the WOW programs with Lodi's classroom science curriculum. Two Board members, Dr. Kathy Beckman and Barbara den Hartog, are purchasing two exhibits for the Museum. The Lodi Association of Realtors has donated a six-foot hand made clock. Kaiser Permanente has shown interest in purchasing an exhibit that follows their theme of "Thrive and Live Well".

Based upon this progress, staff feels comfortable that they will meet their goals within the requested period and recommends that Council authorize the City Manager to authorize the First Amendment attached to this Council Communication.


Blair King
City Manager

APPROVED:


Blair King, City Manager

FIRST AMENDMENT TO LEASE AGREEMENT

WORLD OF WONDERS SCIENCE MUSEUM

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THIS FIRST AMENDMENT TO LEASE AGREEMENT, entered into this ____ day of _____, 2007, by and between the CITY OF LODI, a municipal corporation ("City"), and the World of Wonders Science Museum, a California Nonprofit Corporation (Tax ID No. 20-3075595) ("The WOW" or "Lessee") shall be as follows:

WHEREAS, the parties entered into a Lease Agreement dated February 1, 2007 to allow the construction of Tenant Improvements for and the operation of a Science Museum and Museum Store by The WOW in the Lodi Parking Structure space owned by the City; and

WHEREAS, the Lease Agreement requires that the Tenant Improvements be completed by January 31, 2008 and that the payment of rent commence by February 1, 2008;

WHEREAS, The WOW'S construction of the Tenant Improvements has been delayed despite WOW's considerable effort and success as a result of a slower than projected fundraising campaign; and

WHEREAS, in recognition of WOW's efforts and expected successful fundraising campaign, the Parties wish to extend WOW's deadline for completion of the tenant improvements and the rent commencement date.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

1. Effect of Amendment.

Except as expressly modified herein all terms of the Lease Agreement shall remain in full force and effect.

2. Rent: Paragraph six of the Lease Agreement shall be amended to read:

No rent shall be required to be paid until February 1, 2009. Starting February 1, 2009 the WOW shall pay rent in the amount of \$1,030.00 monthly (which is the equivalent of \$1.29 per square foot rent per month for the estimated 800 square foot Museum Store.) to City.

The WOW's monthly rental payment shall increase in each year of this Lease based upon the annual percentage change of The Consumers Price Index for All Urban Consumers (All Items), San Francisco-Oakland-San Jose Average, as published by The United States Department of Labor Statistics, for the month prior to the date the payment is due. Notwithstanding the foregoing, for any given year, The WOW's monthly rental payment shall increase by no less than 2.5%, and no more than 5.0%, per year.

7. TENANT IMPROVEMENTS. Subparagraph (c) of Paragraph 7 shall be amended to read as follows:

c. Construction Timeline. The parties anticipate that Tenant Improvements will be completed within nineteen (19) months of the execution of this Lease, but in no event shall such improvements be completed later than January 31, 2009. Failure of The WOW to complete construction of Tenant Improvements as set forth above shall be deemed a material breach of the Lease.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first hereinabove mentioned.

CITY OF LODI,
a municipal corporation

World of Wonders Science Museum,
a California Nonprofit Corporation

BLAIR KING, City Manager

By _____
SALLY SNYDE
President

ATTEST:

Jennifer Perrin, Interim City Clerk

APPROVED AS TO FORM:

JANICE D. MAGDICH
Deputy City Attorney

RESOLUTION NO. 2007-248

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO ENTER INTO
AMENDMENT TO WORLD OF WONDERS SCIENCE
MUSEUM LEASE TO EXTEND COMMENCEMENT OF
RENT OBLIGATION

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WHEREAS, the City Council approved a lease with the World of Wonders Science Museum ("WOW") in February of 2007, requiring that tenant improvements be completed by January 2008 and that the payment of rent commence on the same date; and

WHEREAS, although WOW has achieved significant success in its fundraising campaign, its efforts have been hampered by the current economy, and it has requested a one-year extension for completion of the tenant improvements and commencement of rent; and

WHEREAS, based upon this progress, staff feels comfortable that it will meet its goals within the requested period and recommends that Council authorize the City Manager to authorize the First Amendment to the lease on file in the City Clerk's office.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to enter into a First Amendment to the WOW Museum Lease to extend the commencement of the rent obligation and the completion of tenant improvements.

Dated: December 19, 2007

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I hereby certify that Resolution No. 2007-248 was passed and adopted by the City Council of the City of Lodi in a regular meeting held December 19, 2007, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Katzakian, and
Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Hitchcock

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk